not consulted; that on the day before the act in question Dudley proposed to Stephens and Brooks that lots should be cast who should be put to death to save the rest, but Brooks refused to consent, and it was not put to the boy, and, in point of fact, there was no drawing of lots; that on that day the prisoners spoke of their having families, and suggested it would be better to kill the boy, that their lives should be saved, and Dudley proposed if no vessel was in sight by next morning, the boy should be killed; the next day, no vessel appearing, Dudley told Brooks he had better go and have a sleep, and made signs to Stephens and Brooks that the boy had better be killed. Stephens agreed to the act, but Brooks dissented from it; that the boy was then lying in the bottom of the boat quite helpless, and extremely weakened by famine and by drinking sea water, and unable to make any resistance, nor did he ever assent to being killed; that Dudley, with the assent of Stephens, went to the boy, and telling him his time was come, put a knife into his throat and killed him; that the three men fed upon the boy for four days; that on the fourth day after the act the boat was picked up by a passing vessel, and the prisoners were rescued, still alive, but in the lowest state of prostration; that they were carried to the port of Falmouth, and committed for trial at Exeter; that if the men had not fed upon the body of the boy, they would probably not have survived to be so picked up and rescued, but would within the four days have died of famine; that the boy, being in a much weaker condition, was likely to have died before them; that at the time of the act there was no sail in sight, nor any reasonable prospect of relief; that under these circumstances there appeared to the prisoners every probability that unless they then or very soon fed upon the boy or one of themselves, they would die of starvation; that there was no appreciable chance of saving life, except by killing some one for the others to eat; that assuming any necessity to kill any one, there was no greater necessity for killing the boy than any of the other three men; but whether, upon the whole matter, the prisoners were and are guilty of murder, the jury are ignorant, and refer to the Court.' The prisoners were then liberated on bail, themselves in 100*l.*, and one surety for each in a like amount, to appear at the assizes for Cornwall next after a decision of the Queen's Bench, if that Court consider the crime of murder has been committed. The record will be drawn up, and the Crown will apply for a writ of *certiorari* to remove it into the Queen's Bench Division, when it will be argued as a Crown motion.

NOTES OF CASES.

COURT OF QUEEN'S BENCH.

MONTREAL, Nov. 19, 1884.

Before DORION, C.J., MONK, TESSIER, CROSS and BABY, JJ.

GAUDIN (plff. below), Appellant, and ETHIER (deft. below), Respondent.*

Tithe—Right of curé—Purchaser of unthreshed grain.

Held, confirming the judgment of Chagnon, J., (6 Legal News, 165), that the tithe is due by the person who has harvested the grain, and not by him who has merely threshed and fanned it.

2. That the privilege of the *curé* for tithes on the crop subject thereto exists so long as it remains in the possession of the person who has harvested it, but ceases when the grain has passed into the hands of a third party in good faith for valid consideration.

Pagnuelo, Taillon & Lanctot for Appellant.

Paradis & Chassé for Respondent.

COUR DE REVISION.

MONTRÉAL, 31 mai 1884.

Coram SICOTTE, PAPINEAU, JETTÉ, JJ.

MORANDAT v. VARET.*

Capias—Déclaration—Exception à la forme—Délai.

Jugé : Que les délais pour faire une exception à la forme à un bref de capias et aux procédés faits sur icelui devaient compter seulement du jour du rapport fixé dans le bref, et non pas du jour où le bref avait été rapporté au greffe sur un ordre du juge.

* To appear in the Montreal Law Reports, 1 Q.B.